

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

-v-

DOCKET No. 15-CR-247 (DNH)

CORNELL WEATHERS,

Defendant.

SENTENCING MEMORANDUM

DATED: July 19, 2016

Respectfully submitted,
OFFICE OF THE FEDERAL PUBLIC DEFENDER

Lisa A. Peebles, Esq.
Federal Public Defender
Bar Roll No. 507041
Clinton Exchange
4 Clinton Square
Syracuse, New York 13202
(315) 701-0080

I. PELIMINARY STATEMENT

On April 27, 2016, Cornell Weathers pled guilty to counts 1, 2, 3, 4, and 6 of six-count Indictment 15-CR-247 in violation of Title 21, United States Code, Section 841(a)(1) and 18 United States Code, Section 924 (c)(1)(A). A Presentence Report has been prepared in anticipation of sentencing, which is currently scheduled for August 31, 2016. According to the PSR, his total offense level is 13, based upon his possession with intent to sell 42 grams of cocaine and 6 grams of cocaine base and after applying a three-level reduction for acceptance of responsibility. His corresponding advisory guideline range is 18 to 24 months for Counts 1 through 4. His guilty plea to Count 6 requires the imposition of 60 months consecutive to his sentence for Counts 1 through 4. Mr. Weathers has been in custody since his arrest on August 27, 2015 and will have served more than one year in jail by the time he is sentenced. The defense is requesting a sentence of 6-months total imprisonment for Counts 1 through 4 to run consecutive to 60 months for his guilty plea to Count 6.

II. NATURE AND CIRCUMSTANCES OF THE OFFENSE

Cornell Weathers reverted back to old behavior when, at age 45, he decided to sell crack and cocaine to supplement his income in order to help support his family. At the time, he was gainfully employed doing maintenance work for Oriskany Manufacturing Technologies, but was only earning \$10.00 an hour while trying to support his wife and young niece and nephew. It was the financial pressures of trying to make ends meet that resulted in his decision to engage in this regrettable conduct. Sadly, his actions accomplished the exact opposite of his intended purpose. Not only have his wife and family lost his financial contributions from his legitimate employment, but also his household caretaking support. He also regretfully compounded his problems when he took possession of a handgun he found at a party a few months prior to his arrest for this offense. He never sought to own or purchase a firearm and his possession of the handgun in connection with his

conduct in this case can best be described as his failure to appreciate the dire consequences of his decision.

III. HISTORY AND CHARACTERISTICS

Cornell Weathers is 47 years old and grew up in Utica, New York. He was the youngest of four children and to this day he has incredible strong family and community ties. He grew up in a close knit family and both his mother and father were hardworking productive members of the community. His parents divorced when he was 12 and the breakup of their nuclear family was emotionally difficult for him. After his parents separated, Mr. Weathers and his older brother moved to Florida to live with their father. When he was 17, he returned to Utica, New York where he has since resided.

His father died in 1997, while Mr. Weathers was incarcerated for an earlier drug offense. His mother currently resides in Belle Glade, Florida and Mr. Weathers communicates with her through letters. His three older siblings include his 50-year-old brother, Sylvester who lives in Utica, New York; his 52-year-old sister Evelyn, who lives in Utica, New York; and his 49-year-old sister Carthia who lives in Virginia. He remains close to his siblings. Evelyn Weathers, is employed with BNY Mellon as a clerical Data Entry Clerk and describes her brother as an “industrious, hardworking family man who is community minded and other[sic] centered.” She remains very supportive of her brother and is willing to assist him upon his release from custody.

Unlike his siblings, Mr. Weathers ventured off into a world of drugs and alcohol during his early teenage years from which he has never fully recovered. He was first introduced to alcohol and marijuana as a teenager when he began gravitating toward the “wrong” crowd. His drug use began in Florida when he was living with his father and upon his return to Utica his use escalated. He did not use cocaine until he was almost 30 years old, but in every instance his

alcohol and drug use contributed to his prior criminal history.

Throughout his life, Mr. Weathers struggled to extract himself completely from involvement with drugs. His two prior felony convictions are drug related and he has no violence in his history and for many years following his release from prison, he was doing remarkably well. Despite his drug selling activities, Mr. Weathers inherited a solid work ethic from his parents and he has maintained gainful employment for years.

His wife Robin, of five years, has been a positive influence on him and she does not condone his conduct in this case. Mr. Weathers began dating Robin shortly before his second felony drug arrest in 1996. They rekindled their relationship in 2001 after his release from prison and Robin describes their courtship as sporadic until they married in 2011. They never had children together but they were both involved in raising each other's children from other relationships. Mr. Weathers has always had a full plate, he fathered eight children and although he contributed to their support throughout the years, he continues to have substantial child support arrears. He has never been able to catch up with his outstanding financial obligations which has caused him substantial anxiety.

Robin was working full time and had no knowledge that Mr. Weathers was selling drugs to supplement their household income. Together they were taking care of Robin's elderly mother full-time along with their young niece and nephew. Prior to his arrest for this offense, they worked different shifts and they were able to juggle their family obligations. Mr. Weathers arrest for this offense came as quite a blow to Robin and her elderly mother. She is now their only source of income and the sole caretaker for the family. She works for New York State as a Direct Care Aid and at the time of her husband's arrest, she was also employed as a bus driver

for the Bernie Bus Company. Both Mr. Weathers and his wife Robin are very giving, kind-hearted people. Despite their financial constraints and various obligations, they refused to turn their backs on family members. They have always opened their home to those in need which is the reason they agreed to take custody of Robin's 5-month old nephew who is currently 9 years old.

Five months after Mr. Weathers was arrested, the Uncle of this child telephoned her and demanded that she speak with him about his custody status. The Uncle showed up late one February evening this year and lured Robin outside onto her front porch while her niece, nephew and elderly mother were asleep inside the house. When Robin asked him to leave, another male approached her and the Uncle ordered him to shoot her. This unidentified male shot at Robin 10 times and thankfully only one bullet managed to hit her. The bullet entered her leg and traveled to her abdomen. The two men fled and the neighbors called 911. Robin required surgery and was hospitalized for several days. Today Robin is almost completely recovered and she has returned to work.

This tragic event took place during Mr. Weathers recent incarceration and he felt completely helpless. He was not able to support his wife in any way during her time of need. Since the attack, Robin has successfully obtained legal custody of her nephew. Robin Weathers is an incredibly strong, caring and hardworking individual and she remains very supportive of her husband. She anxiously awaits his return home to help with her elderly mother and their niece and nephew.

In addition to his strong family support, Mr. Weathers has tremendous support from various members of the community. Reverend Marilyn M. Bell of Saint Paul's Baptist Church

describes how Mr. Weathers and his wife volunteer and are dedicated members of the church. Other members of their church community have voiced their support for Mr. Weathers, including, Tracy Bowens, Melinda Brown, Kenneth Pollard and Veronica Edwards. They have all pledged their support for Mr. Weathers upon his release from prison. A former Councilman, Jerome McKinsey, Sr. wrote, “Cornell has always been a strong presence at various community events and has played a key role in helping leadership yield positive results.” Mr. McKinsey witnessed first-hand Mr. Weathers volunteer work in the community and his interaction with young adults in their community. Despite his drug dealing activities, Mr. Weathers was fully committed to his family and church.

IV. DETERMINING THE APPROPRIATE SENTENCE

Mr. Weathers is asking for a non-guideline sentence which would fulfill the statutory purposes of 18 U.S.C. Section 3553(a). He has spent the majority of his adult life gainfully employed and, in addition to his solid work history, he is a dedicated family man who is active in his church and local community. The Sentencing Reform Act provides, in part, that:

The Court shall impose a sentence sufficient, but not greater than necessary, to comply with the purposes set forth in Paragraph (2) of this subsection. The Court, in determining the particular sentence to be imposed shall consider:

- (1) The nature and circumstances of the offense and the history and characteristics of the defendant; [and]
- (2) The need for the sentence imposed;
 - (A) To reflect the seriousness of the offense, to promote respect for the law, and to provide just punishment for the offense;
 - (B) To afford adequate deterrence to criminal conduct;
 - (C) To protect the public from further crimes of the defendant; and
 - (D) To provide the defendant with needed educational or vocational training, medical care, or other correctional treatment in the most effective manner. (18 U.S.C. 3553(a)).

A careful consideration of the totality of relevant circumstances surrounding this case, in conjunction with Mr. Weathers' age and background should lead this court to conclude that a below guideline sentence would be sufficient, but not greater than necessary, to comply with the purposes of punishment. At the time of sentencing Mr. Weathers will have served more than a year in jail. He is only seeking the equivalent of a 12-month variance because Your Honor is required to impose a 60-month sentence. By the time he is released from custody, he will be 52-years old and certainly not likely to recidivate

CONCLUSION

Mr. Weathers is extremely remorseful for his conduct in this case. He has had ample time to reflect on his conduct and most importantly, the devastating impact his poor decisions making have had on his family. He is not a typical "drug dealer" who is often much younger, devoid of any family support, unemployed and only capable of living in the moment. Mr. Weathers is a hardworking family man who is very capable of being a productive member of the community and will likely be very successful upon his release from custody.

DATED: August 9, 2016

LISA A. PEEBLES
Federal Public Defender

By: *s/Lisa A. Peebles, Esq.*

Lisa A. Peebles, Esq.
Bar Roll No. 507041
Clinton Exchange
4 Clinton Square
Syracuse, New York 13202
(315) 701-0080

To: Geoff Brown, Esq., AUSA
Jeffrey Loftus, USPO
Cornell Weathers